

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CESAR SANTACRUZ, JAVIER
VALENCIA, et al.,

Plaintiffs,

v.

FRENCH CONNECTION BAKERY, INC.,
et al.,

Defendants.

Case No.: C 07-1118 PVT
Case No.: C 08-0996 PVT

**ORDER CONDITIONALLY GRANTING
PLAINTIFFS' MOTION TO ALLOW
TESTIMONY BY CONTEMPORANEOUS
TRANSMISSION**

On June 9, 2008, Plaintiffs filed a Motion to Allow Testimony by Contemporaneous Transmission. Defendants opposed the motion. Having reviewed the papers submitted by the parties, the court finds it appropriate to issue this order without oral argument. Based on the moving, opposition and reply papers submitted, and the file herein,

IT IS HEREBY ORDERED that Plaintiffs' motion is CONDITIONALLY GRANTED. No later than August 4, 2009, Plaintiff Cesar Santacruz shall file a declaration in his native language along with a properly certified translation. *See Jack v. Trans World Airlines*, 854 F.Supp. 654, 659 (N.D.Cal. 1994) ("Witness testimony translated from a foreign language must be properly authenticated and any interpretation must be shown to be an accurate translation done by a competent translator.").

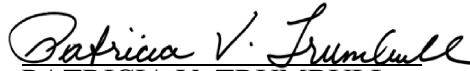
1 The fact Plaintiff Santacruz has been deported constitutes good cause for allowing him to
2 testify via contemporaneous transmission. This is not a situation where it is a “mere inconvenience”
3 for Santacruz to attend the trial. Further, the fact that Plaintiff was in the United States illegally is
4 insufficient to establish that he should have known he would be deported before trial.¹

5 Defendants acknowledge they deposed Plaintiff Santacruz, presumably in person, and thus
6 they have had an adequate opportunity to prepare to examine him at trial.

7 Finally, the Advisory Committee Notes referenced by Defendants were written over a decade
8 ago, and are somewhat less persuasive in light of the improvements that have been made to video
9 conference technologies in the interim.

10 IT IS FURTHER ORDERED that Plaintiffs’ counsel shall make the arrangements for
11 Plaintiff Santacruz to appear at trial via video conference. The court has video conference
12 capabilities, and counsel can contact the court’s courtroom deputy (408-535-5378) to find out the
13 procedure for dialing in. It is up to Plaintiff Santacruz to locate appropriate video conference
14 facilities near where he resides and make arrangements to connect to the court via video conference
15 to testify at trial.

16 Dated: 7/24/09

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18 PATRICIA V. TRUMBULL
United States Magistrate Judge

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28 ¹ It is common knowledge that many aliens reside in the United States illegally for
decades.